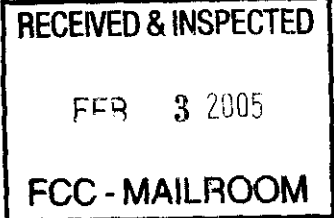


Before the
Federal Communications Commission
Washington, D.C. 20554



In the Matter of) File No. SLD -
)
Appeal of Decision of the)
)
Universal Service Administrator)
)
By) CC Docket No. 96 - 45
)
Raleigh County School District)
Beckley, WV)
) CC Docket No. 97 - 21
)
Federal-State Joint Board on)
Universal Service)
Changes to the Board of Directors of)
The National Exchange Carrier)
Association, Inc.)

Appeal and Request for Expedited Relief
on behalf of the
Raleigh County School District

TO: Federal Communications Commission
Office of the Secretary
445 - 12th Street, SW
Washington, DC 20554

Appeal From the Following Funding Commitment Decision Letter

(1)	Form 471 Application Number:	393628
	Funding Year 2004:	07/01/2004-06/30/2005
	Billed Entity Number:	126706
	Date of Funding Denial Notice:	December 3, 2004

6-3-04
014

Funding Request Numbers Appealed

FRNs - 1126025, 1126198, 1126210, 1127771, 1127786, 1127799, 1127810,
127830, 1127923, 1127937, 1127945

(2) Form 471 Application Number: 424653
Funding Year 2004: 07/01/2004-06/30/2005
Billed Entity Number: 126706
Date of Funding Denial Notice: December 3, 2004

Funding Request Numbers Appealed

FRNs -1174011, 1174086, 1174273

SLD's Reason for Funding Denial

The SLD denied funding for each of the above-referenced FRN's contained in this Application for the reason that "30% or more of this FRN includes a request for unsubstantiated charges which are ineligible per program rules."

Statement in Support of Appeal

Raleigh County School District of Beckley West Virginia ("Raleigh") seeks review of a decision by the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC"). The decision by the SLD denied Raleigh funding for the all above-referenced FRNs for the July 1, 2004-June 30, 2005 Funding Year stating that for each FRN "30% or more of this FRN includes a request for unsubstantiated charges which are ineligible per program rules." This decision by the SLD violated program rules and FCC orders regarding unsubstantiated requests and should be overturned.

1. The SLD applied the "30% rule" incorrectly when it denied Applicant's request for telecommunications services

Raleigh County School District properly prepared, and timely filed, a FCC Form 471 for telecommunications services. The SLD denied funding on the relevant FRN's on the grounds that: "30% or more of this FRN includes a request for unsubstantiated charges which is are

ineligible per program rules.” Raleigh appeals this decision on the basis that its requests for telecommunications services were fully eligible and that the SLD wrongfully denied its request basing its decision on the erroneous application of the “30% rule” to unsubstantiated charges.

a. Telecommunications is an eligible service

Telecommunications is Priority One eligible service under the Eligible Services List for Funding Year 2004. It is for this service that Raleigh applied. On its Form 471, Raleigh estimated some of the estimated costs of associated with its telecommunications service. Since the costs were estimated, they could not be substantiated by actual bills. The SLD committed reversible error when it denied funding for these FRNs on the basis that they violated the “30% rule”. The FCC recently ruled on this very issue. See *Request For Review by Iroquois West School District 10*.¹ In circumstances very similar to that of *Iroquois*, in the SLD determined that more than 30 percent of Raleigh’s funding requests included unsubstantiated phone charges. The SLD then determined that all the telecommunications services applied for were ineligible under the 30 percent benchmark. It is obvious that the SLD made a mistake when it denied telecommunications funding for these FRNs basing its decision on the fact that the charges were unsubstantiated. At a worst case scenario, if an adjustment was required, the funding request should have been modified to meet the district’s documentation, not denied outright. For this reason the decision of the SLD should be overturned and Raleigh County School District should receive funding for telecommunications services as applied for.

¹ See *Request For Review by Iroquois West School District 10*, File No. SLD-343292, CC Docket No. 02-6, Order DA 05-54 (Adopted January 10, 2005).

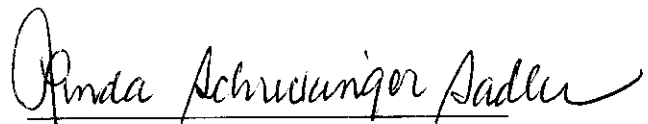
Conclusion

The FCC has ruled that the SLD may not apply the "30% rule" to unsubstantiated charges, only to ineligible requests. It is clear that the SLD wrongfully applied the "30% rule" when it denied funding to Raleigh for the eligible telecommunications services requests contained in all its FRNs. For this reason the SLD's decision should be overruled and Raleigh's funding requests should be granted.

Applicant hereby requests:

1. That this matter be acted upon within 90 days or less of the filing date of this appeal;
2. That the FCC order funding for the FRNs set forth herein.
3. That funds be set aside to totally fund the District's request.

Respectfully submitted,



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